

House Bill 367 (AS PASSED HOUSE AND SENATE)

By: Representatives Rice of the 51st and Parham of the 141st

A BILL TO BE ENTITLED
AN ACT

1 To amend provisions of the Official Code of Georgia Annotated relating to motor vehicles
2 and drivers; to amend Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia
3 Annotated, relating to registration and licensing of motor vehicles generally, so as to change
4 the requirements regarding replacement of license plates on private and governmental motor
5 vehicles; to increase the license fee on governmental vehicles; to provide for disposition of
6 the license fee on governmental vehicles; to remove the provisions regarding five-year
7 license plates on governmental vehicles; to change the requirements as to destruction of tags
8 from governmental vehicles; to amend Article 2 of Chapter 5 of Title 40 of the Official Code
9 of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, so
10 as to provide that driver training schools must be licensed and in operation for two years
11 before being authorized to conduct on-the-road driving tests; to amend Article 4 of Chapter
12 5 of Title 40 of the Official Code of Georgia Annotated, relating to restoration of licenses to
13 persons completing a defensive driving course or alcohol or drug program, so as to provide
14 for approval of a driver improvement clinic's curriculum; to provide for certificates of
15 completion; to delete references to advanced defensive driving courses; to amend Article 7
16 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to commercial
17 drivers' licenses, so as to change definitions; to require applicants for a hazardous materials
18 endorsement to successfully complete a security threat assessment; to provide for
19 nonresident commercial driver's licenses; to provide penalties for violations; to amend Title
20 43 of the Official Code of Georgia Annotated, relating to professions and businesses, so as
21 to enact Chapter 12A to provide for licensing of ignition interlock device provider centers;
22 to provide a short title; to provide for definitions; to provide for certain requirements for
23 operators of ignition interlock device provider centers; to provide for a misdemeanor offense;
24 to provide for rules and standards to be set by the commissioner of motor vehicle safety; to
25 amend Chapter 13 of Title 43 of the Official Code of Georgia Annotated, relating to
26 instructors in driver training and operators of driver training schools, so as to provide
27 definitions; to provide exceptions from the provisions of the chapter; to regulate licensing
28 of driver training schools; to provide for insurance and bonds for driver training school

operators; to provide for related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to registration and licensing of motor vehicles generally, is amended by striking subsections (b), (b.1), and (c) of Code Section 40-2-31, relating to design and replacement of license plates on private vehicles, and inserting in their place the following:

"(b) Such license plates shall be of metal at least six inches wide and not less than 12 inches in length, except motorcycle license plates which shall be at least four inches wide and not less than seven inches in length, and shall show in bold characters the month and year of registration expiration, the serial number, and either the full name or the abbreviation of the name of the state, shall designate the county from which the license plate was issued, and shall show such other distinctive markings as in the judgment of the commissioner may be deemed advisable, so as to indicate the class of weight of the vehicle for which the license plate was issued; and any license plate for a low-speed vehicle shall designate the vehicle as such. Such plates may also bear such figures, characters, letters, or combinations thereof as in the judgment of the commissioner will to the best advantage advertise, popularize, and otherwise promote Georgia as the 'Peach State.' The metal shall be of such strength and quality that the plate shall provide a minimum service period of at least five years. ~~Every five years a new metal license plate shall be provided by the commissioner for issuance. Metal license plates issued on or after January 1, 1997, shall be used for a period of five years.~~ The commissioner shall adopt rules and regulations, pursuant to the provisions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' for the design and issuance of new metal license plates and to implement the other provisions of this Code section.

~~(b.1) Any valid license plate or revalidation decal assigned to a vehicle under former provisions of this Code section prior to May 1, 1997, shall be deemed issued to the current registrant of such vehicle on May 1, 1997.~~

(c) The face of the license plate to be displayed shall be treated completely with a retroreflective material which will increase the nighttime visibility and legibility of the plate. ~~The Office of Highway Safety~~ department shall prepare the specifications which such retroreflective material shall meet."

SECTION 2.

Said article is further amended by striking Code Section 40-2-37, relating to registration and licensing of governmental motor vehicles, and inserting in its place the following:

"40-2-37.

(a) All vehicles of the type required to be registered by Code Section 40-2-20 owned by the State of Georgia or any municipality or other political subdivision of this state and used exclusively for governmental functions, except those employed in secret investigatory police functions to which regular Georgia license plates are issued, shall be registered with the commissioner by the fiscal officers or other proper officials of the respective departments and agencies of the state, municipality, or political subdivision to which such vehicles belong prior to operation and use thereof. Such registration shall be made upon forms prescribed and prepared by the commissioner for such purpose and shall contain a brief description of the vehicle to be registered; its name and model; the name of the manufacturer; the manufacturer's vehicle identification number; the department, agency, political subdivision, or branch thereof to which such vehicle is to be registered; and such other information as to use and identity as the commissioner may require. Upon the filing of the properly executed application for registration, the commissioner, upon being satisfied that such vehicle is bona fide owned by the state or a municipality or political subdivision thereof and is to be used exclusively for governmental functions, shall issue, upon payment by such applicant of a license fee of ~~\$1.00~~ \$3.00, a license plate which shall be displayed upon such vehicle in the same manner as provided for private vehicles. The license fee, less the actual manufacturing cost of the plates which shall be retained by the department, shall be deposited in the general fund of the state treasury. Such license plates shall be replaced at such time as other license plates issued for private vehicles are required to be replaced.

(b) For all vehicles owned by the State of Georgia or any municipality or other political subdivision of this state, except those vehicles employed in covert or secret investigatory police functions to which regular Georgia license plates are issued and those vehicles owned by the Department of Public Safety, the commissioner shall provide for ~~five-year~~ registration and issuance of regular license plates for such vehicles. The ~~five-year~~ license plates issued pursuant to this subsection shall be identical in appearance to regular license plates issued for private vehicles, except that such ~~five-year~~ license plates shall not display any ~~year of registration or~~ registration expiration. Such license plates may be transferred as provided for in subsection (d) of this Code section. Such ~~five-year~~ license plates shall be issued at the ~~beginning of a five-year license period as for private vehicles or shall be issued at the time the vehicle is purchased by the state, and all such license plates shall expire at the same time as regular license plates.~~

(c) All license plates issued to government vehicles pursuant to this Code section shall be marked in such a manner as to indicate the specific type of governmental unit operating the vehicle. These markings shall be prominently displayed and shall consist of one of the following appropriate legends: 'STATE,' 'CITY,' 'COUNTY,' 'AUTHORITY,' or 'BOARD.'

In addition, each such license plate shall bear a county identification strip indicating the county in which the vehicle is based except that vehicles owned by the state shall not be required to bear such county identification strip.

(d) Any such license plates shall remain displayed and affixed upon such vehicle so long as such vehicle continues to be owned by the state or such municipality or political subdivision and used exclusively for governmental functions. Upon cessation of either such ownership or use, the license plate shall be removed from such vehicle and ~~either destroyed by such agency or~~ returned to the commissioner or the county tag agent for destruction. ~~If a license plate has been destroyed by the agency, certification of such destruction shall be provided by the agency to the commissioner upon a form prepared and furnished for such purpose by the commissioner.~~ In the event of a transfer of a vehicle to a department or agency, or branch thereof, other than the specific one to which such vehicle is registered, the commissioner shall be notified in writing by the department or agency from which the same is being transferred upon a form prepared and furnished for such purpose by the commissioner. ~~Such transfer shall be recorded on the registration lists maintained by the commissioner.~~ On due proof of loss of any such license plate, or of mutilation due to accidental or natural causes, another license plate may be issued upon application of the fiscal officer or other proper official of the department, agency, or political subdivision to which any such lost plate is registered.

(e) No person, firm, or corporation owning or operating any such vehicle shall display upon the motor vehicle any license plate provided for in this Code section unless at the time of such ownership or operation such vehicle is properly registered under this Code section and is owned by the state or a municipality or political subdivision of this state and is being used exclusively for governmental purposes. Any person who violates this subsection shall be guilty of a misdemeanor.

(f) This Code section shall apply to all vehicle license plates issued for governmental vehicles on and after January 1, ~~1996~~ 2006."

SECTION 3.

Article 2 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to issuance, expiration, and renewal of drivers' licenses, is amended by striking subsection (e) of Code Section 40-5-27, relating to examination of applicants for drivers' licenses, and inserting in its place the following:

"(e) If the department determines that the pilot program provided for in subsection (d) of this Code section is successful, it shall authorize licensed driver training schools to conduct on-the-road driving tests as provided in this subsection. The department shall, prior to approving a licensed driver training school to conduct on-the-road driving tests as provided in this subsection, make a determination that the school has been licensed for a minimum of ~~one year~~ two years and has conducted driver education ~~and adult education courses~~ on a full-time basis for such ~~one year~~ two-year period and that such school meets all other standards which the department may establish as a condition for approval to conduct such tests. The department shall authorize a driver training school licensed pursuant to Chapter 13 of Title 43 and approved by the department to administer the testing provided for in this Code section, provided that the applicant has successfully completed a driver training course which includes a minimum of 30 class hours of instruction and six hours of private in-car training. The department may establish by rules and regulations the type of tests or demonstrations to be made by applicants for any Class C or Class D driver's license under this Code section."

SECTION 4.

Article 4 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to restoration of licenses to persons completing a defensive driving course or alcohol or drug program, is amended by striking paragraphs (1) and (2) of subsection (a) of Code Section 40-5-83, relating to operation of driver clinics and programs, and inserting in their place the following:

"(a)(1) The commissioner of motor vehicle safety shall establish criteria for the approval of driver improvement clinics. To be approved, a clinic shall provide ~~and operate either a defensive driving course, an advanced defensive driving course, or a professional defensive driving course or any combination thereof~~ to the department for approval, or notify the department of the clinic's legal authority to use a currently approved curriculum or program, a curriculum consisting of a minimum of six hours of classroom theoretical instruction consisting of traffic safety related information designed for the improvement or remediation of an individual's knowledge of defensive driving techniques and traffic laws. Clinics shall be composed of uniform education and training programs ~~consisting of six hours of instruction~~ designed for the rehabilitation of problem drivers. The commissioner shall establish standards and requirements concerning the contents of courses, qualifications of instructors, attendance requirements for students, and examinations. Approved clinics shall charge a fee of \$75.00 for a defensive driving course, an advanced defensive driving course, or a professional defensive driving course; except that such clinics may charge different fees of their own choosing if the person is

1 not enrolling in such course pursuant to court order or department requirement. No clinic
2 shall be approved unless such clinic agrees in writing to allow the examination and audit
3 of the books, records, and financial statements of such clinic. ~~Clinics may be operated by~~
4 ~~any individual, partnership, corporation, association, civic group, club, county,~~
5 ~~municipality, board of education, school, or college.~~ It shall be the responsibility of the
6 clinic owner or operator to issue to each student who has passed the course a certificate
7 of completion in the format prescribed by the department for reinstatement, points
8 reduction, out of state reinstatement, or fulfilling a court order. The student's stated
9 purpose for taking the course shall be noted as required by the certificate of completion.
10 Students who are taking a class for the purpose of insurance reduction only, without any
11 additional purpose of reinstatement, points reduction, out of state reinstatement, or
12 fulfilling a court order, shall be given a certificate of completion noting this purpose. A
13 certificate of completion for insurance reduction only cannot be used for the purpose of
14 reinstatement, points reduction, out of state reinstatement, or fulfilling a court order.
15 Driver improvement clinics may be operated by any public, private, or governmental
16 entity; provided, however, that in any county where a driver improvement clinic is
17 operated by a private entity, no governmental entity shall be licensed to operate a driver
18 improvement clinic."

19 "(2) The commissioner may issue a special license to the instructor of any ~~commercial~~
20 driver training school authorizing such instructor to teach a defensive driving course;
21 ~~advanced defensive driving course, or professional defensive driving course~~ of a driver
22 improvement clinic provided pursuant to this Code section if such instructor is qualified
23 to teach a teen-age driver education course which consists of a minimum of 30 hours of
24 classroom and six hours of behind-the-wheel training and such instructor certifies to the
25 commissioner that he or she has provided at least 250 hours of behind-the-wheel training
26 in a teen-age driver education course."

27 SECTION 5.

28 Said article is further amended by striking subsections (b), (c), and (d) of Code Section
29 40-5-84, relating to reinstatement of licenses suspended for points, and inserting in their
30 place the following:

31 "(b) The license of any person whose license is suspended for the second time as a result
32 of the conviction of an offense listed in Code Section 40-5-54 shall, at the expiration of 120
33 days following the date the license is suspended, be reinstated by the department upon
34 receipt by the department of a certificate of completion of ~~an advanced~~ a defensive driving
35 course and the payment of a restoration fee of \$210.00 or \$200.00 when such reinstatement
36 is processed by mail.

(c) The license of any person whose license is suspended for the first time as a result of the assessment of points pursuant to Code Section 40-5-57 shall be reinstated by the department immediately upon receipt by the department of a certificate of completion of ~~an approved~~ a defensive driving course and the payment of a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail.

(d) The license of any person whose license is suspended for the second time as a result of the assessment of points pursuant to Code Section 40-5-57 shall be reinstated by the department immediately upon receipt by the department of a certificate of completion of ~~an advanced~~ a defensive driving course and the payment of a restoration fee of \$210.00 or \$200.00 when such reinstatement is processed by mail."

SECTION 6.

Article 7 of Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to commercial drivers' licenses, is amended by striking paragraphs (7), (9), and (22) of Code Section 40-5-142, relating to definitions regarding commercial drivers' licenses, and inserting in their respective places the following:

"(7) 'Commercial motor vehicle' means a motor vehicle designed or used to transport passengers or property:

(A) If the vehicle has a gross vehicle weight rating of 26,001 or more pounds or such lesser rating as determined by federal regulation;

(B) If the vehicle is designed to transport 16 or more passengers, including the driver; or

(C) If the vehicle is transporting hazardous materials and is required to be placarded in accordance with the Motor Carrier Safety Rules prescribed by the United States Department of Transportation, Title 49 C.F.R. Part 172, subpart F;

provided, however, that for the purposes of this article, no agricultural vehicle, ~~military~~ commercial vehicle operated by military personnel for military purposes, recreational vehicle, or fire-fighting or emergency equipment vehicle shall be considered a commercial vehicle. As used in this paragraph, the term 'agricultural vehicle' means a farm vehicle which is controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from a farm; and operated within 150 miles of such person's farm; which vehicle is not used in the operations of a common or contract carrier. Any other waiver by the Federal Highway Administration pursuant to Federal Law 49 C.F.R. Parts 383, 391, RIN 2125-AB 68, of the United States Department of Transportation shall supersede state law in authorizing the Department of Motor Vehicle Safety to exempt said classes."

“(9) ‘Conviction’ means a an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person’s appearance in court, a plea of guilty or nolo contendere accepted by the court, ~~a finding of guilt, or the payment of a fine or court cost, or~~ violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.”

"(22) 'Serious traffic violation' means conviction of any of the following offenses when operating a commercial motor vehicle or a noncommercial motor vehicle:

- (A) Speeding 15 or more miles per hour above the posted speed limit;
- (B) Reckless driving, as defined under state or local law;
- (C) Following another vehicle too closely, as defined under state or local law;
- (D) Improper or erratic lane change which presents a risk to any other vehicle, but not including failure to signal a lane change;
- (E) A violation, arising in connection with a fatal crash, of state law or a local ordinance, relating to motor vehicle traffic control, excluding parking, weight, length, height, and vehicle defect violations;
- (F) A railroad grade crossing violation as defined under state law or local ordinance;
- (G) Driving a commercial motor vehicle without obtaining a commercial driver's license;
- (H) Driving a commercial motor vehicle without a valid commercial driver's license in the driver's immediate possession; or
- (I) Driving a commercial motor vehicle without a commercial driver's license of the proper class and/or endorsements for the specific vehicle being operated or for the passengers or type of cargo transported."

SECTION 7.

Said article is further amended by adding a new paragraph (4) to subsection (c) of Code Section 40-5-147, relating to requirements for issuance of licenses, to read as follows:

“(4) An applicant for a hazardous materials endorsement must successfully complete a security threat assessment conducted by the federal Transportation Security Administration or its agent prior to the issuance of such an endorsement.”

SECTION 8.

Said article is further amended by inserting a new Code section immediately following Code Section 40-5-148.1, relating to restricted commercial licenses for persons in the agricultural industry, to read as follows:

1 "40-5-148.2.

2 If an individual is domiciled in another state while that state is prohibited from issuing
3 commercial drivers' licenses in accordance with Title 49 C.F.R. Section 384.405, that
4 individual is eligible to obtain a nonresident commercial driver's license. That individual
5 shall provide the information specified in Code Section 40-5-149. The department shall
6 promulgate rules and regulations as necessary to implement this Code section, in
7 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' within
8 90 days of being notified that a state will be prohibited from issuing commercial drivers'
9 licenses."

10 SECTION 9.

11 Said article is further amended by inserting a new subsection (e) in Code Section 40-5-149,
12 relating to contents of the application for a commercial driver's license, to read as follows:

13 "(e) Before issuing a commercial driver's license, the department shall obtain driving
14 record information through the Commercial Driver License Information System and the
15 National Driver Register and shall request driving record information from each state in
16 which the applicant has been licensed within the past ten years."

17 SECTION 10.

18 Said article is further amended by striking subsection (h) of Code Section 40-5-150, relating
19 to contents of a commercial driver's license, and inserting in its place the following:

20 "(h) When applying for renewal of a commercial driver's license, the applicant shall
21 complete the application form required by subsection (a) of Code Section 40-5-149,
22 providing updated information and required medical certifications. If the applicant wishes
23 to retain a hazardous materials endorsement, the written test for a hazardous materials
24 endorsement must be taken and passed. In addition, an applicant for a hazardous materials
25 endorsement must successfully complete a security threat assessment conducted by the
26 federal Transportation Security Administration or its agent prior to the issuance of such an
27 endorsement."

28 SECTION 11.

29 Said article is further amended by striking Code Section 40-5-151, relating to disqualification
30 from driving and action required after suspending, revoking, or canceling license or
31 nonresident privileges, and inserting in its place the following:

32 "40-5-151.

33 (a) Any person is disqualified from driving a commercial motor vehicle for a period of not
34 less than one year:

1 (1) If convicted of a first violation of:

2 (A) Any offense specified in Code Section 40-5-54 that occurs while the person is
3 driving or being in actual physical control of a moving commercial motor vehicle or a
4 moving noncommercial vehicle;

5 (B) Driving or being in actual physical control of a moving commercial motor vehicle
6 while there is 0.04 percent or more by weight of alcohol in his or her blood, breath, or
7 urine; ~~or~~

8 (C) Driving or being in actual physical control of a moving noncommercial vehicle in
9 violation of Code Section 40-6-391; or

10 (D) Driving while his or her license is suspended, revoked, or canceled or while he or
11 she is otherwise disqualified from operating a commercial motor vehicle; or

12 (2) For refusal to submit to a test as prescribed in Code Section 40-5-55 to determine the
13 driver's alcohol concentration while driving a commercial motor vehicle or a
14 noncommercial motor vehicle.

15 (b) Any person is disqualified from driving a commercial motor vehicle for a period of not
16 less than three years if convicted of a first violation of using a commercial motor vehicle
17 in the commission of a felony or for offenses specified in ~~paragraph (1)~~ of subsection (a)
18 of this Code section, provided that the vehicle being operated or used in connection with
19 such violation or commission of such felony is transporting a hazardous material required
20 to be placarded under Section 105 of the Hazardous Material Transportation Act.

21 (c) Any person is disqualified from driving a commercial motor vehicle for life if
22 convicted of two or more violations of any of the offenses specified in subsection (a) of
23 Code Section 40-5-54 or Code Section 40-6-391, the refusal to submit to state administered
24 chemical testing as prescribed by Code Section 40-5-55, or any combination of those
25 offenses or refusals, arising from two or more separate incidents.

26 (d) The department may issue regulations establishing guidelines, including conditions,
27 under which a disqualification for life under subsection (c) of this Code section may be
28 reduced to a period of not less than ten years. The department is not authorized to make
29 any other reduction in a term of disqualification or to issue a limited or other permit or
30 license that would allow the operation of a commercial motor vehicle during the term of
31 disqualification mandated by this Code section.

32 (e) Any person is disqualified from driving a commercial motor vehicle for life who
33 knowingly uses a commercial motor vehicle in the commission of any felony involving the
34 manufacture, distribution, or dispensing of a controlled substance, or possession with intent
35 to manufacture, distribute, or dispense a controlled substance.

36 (f)(1) Except as otherwise provided by paragraph (2) of this subsection, any person is
37 disqualified from driving a commercial motor vehicle for a period of not less than 60 days

1 if convicted of two serious traffic violations or 120 days if convicted of three serious
2 traffic violations committed in a commercial motor vehicle or a noncommercial motor
3 vehicle arising from separate incidents occurring within a three-year period as measured
4 from the dates of arrests for which convictions were obtained.

5 (2) If the serious traffic violation committed in a commercial motor vehicle is a railroad
6 grade crossing violation, the person shall be disqualified from driving a commercial
7 motor vehicle for a period of not less than 60 days upon the first conviction within a
8 three-year period as measured from the dates of arrests for which convictions were
9 obtained, for not less than 120 days if convicted of two railroad grade crossing violations
10 arising from separate incidents within a three-year period as measured from the dates of
11 arrests for which convictions were obtained, or for not less than one year if convicted of
12 three railroad grade crossing violations arising from separate incidents within a three-year
13 period as measured from the dates of arrests for which convictions were obtained.

14 (g) Any person is disqualified from driving a commercial motor vehicle for a period of not
15 less than 60 days if it is determined, in a check of an applicant's license status and record
16 prior to issuing a commercial driver's license, or at any time after the commercial driver's
17 license is issued, that the applicant has falsified information on his or her application or any
18 related filing.

19 ~~(g)~~(h)(1) Any person is disqualified from driving a commercial motor vehicle based on
20 the following violations of out-of-service orders:

21 (A) First violation — a driver who is convicted of a first violation of an out-of-service
22 order is disqualified for a period of not less than 90 days and not more than one year;

23 (B) Second violation — a driver who is convicted of two violations of out-of-service
24 orders in separate incidents is disqualified for a period of not less than one year and not
25 more than five years; and

26 (C) Third or subsequent violation — a driver who is convicted of three or more
27 violations of out-of-service orders in separate incidents is disqualified for a period of
28 not less than three years and not more than five years.

29 (2) Any person is disqualified for a period of not less than 180 days nor more than two
30 years if the driver is convicted of a first violation of an out-of-service order while
31 transporting hazardous materials required to be placarded under Section 105 of the
32 Hazardous Materials Transportation Act or while operating a commercial motor vehicle
33 designed to transport more than 16 passengers, including the driver. A driver is
34 disqualified for a period of not less than three years nor more than five years if during any
35 ten-year period the driver is convicted of any subsequent violations of out-of-service
36 orders, in separate incidents, while transporting hazardous materials required to be
37 placarded under Section 105 of the Hazardous Materials Transportation Act or while

1 operating a commercial motor vehicle designed to transport more than 16 passengers,
2 including the driver.

3 (3) Whenever the operator of a commercial motor vehicle is issued an out-of-service
4 order, a copy of such order shall be issued to the operator of the commercial motor
5 vehicle, the operator of the commercial motor vehicle's employer, and a copy or notice
6 of such out-of-service order shall be provided to the department. The form of such
7 out-of-service order, the procedures for notifying the department upon the issuance of
8 such an order, and other matters relative to the issuance of out-of-service orders and
9 violations thereof shall be provided in rules and regulations promulgated by the
10 commissioner.

11 ~~(h)~~(i) After suspending, revoking, or canceling a commercial driver's license, the
12 department shall update its records to reflect that action within ten days. After suspending,
13 revoking, or canceling a nonresident commercial driver's privileges, the department shall
14 notify the licensing authority of the state which issued the commercial driver's license
15 within ten days."

16 SECTION 12.

17 Title 43 of the Official Code of Georgia Annotated, relating to professions and businesses,
18 is amended by inserting a new chapter to read as follows:

19 "CHAPTER 12A

20 43-12A-1.

21 This chapter shall be known and may be cited as the 'Ignition Interlock Device Providers
22 Act.'

23 43-12A-2.

24 As used in this chapter, the term:

25 (1) 'Department' means the Department of Motor Vehicle Safety acting directly or
26 through its duly authorized officers and agents.

27 (2) 'Ignition interlock device' means a constant monitoring device certified by the
28 commissioner of motor vehicle safety which prevents a motor vehicle from being started
29 at any time without first determining the equivalent blood alcohol concentration of the
30 operator through the taking of a deep lung breath sample. The system shall be calibrated
31 so that the motor vehicle may not be started if the blood alcohol concentration of the
32 operator, as measured by the device, exceeds 0.02 grams or if the sample is not a sample
33 of human breath.

(3) 'Provider center' means a facility established for the purpose of providing and installing ignition interlock devices when their use is required by or as a result of an order of a court.

43-12A-3.

No person shall operate a provider center or engage in the practice of providing, installing, or monitoring ignition interlock devices unless a license therefor has been secured from the department.

43-12A-4.

(a) Every person who desires to operate a provider center shall meet the following requirements:

(1) Maintain an established place of business in the state which is open to the public;

(2) Maintain a general liability policy of insurance, including products and completed operations, with not less than \$50,000.00 of combined single limits, with an insurance carrier authorized by the Commissioner of Insurance to write policies in the state. Evidence of such insurance coverage, in the form of a certificate from the insurance carrier, shall be filed with the department; and such certificate shall stipulate that the insurance shall not be canceled except upon ten days' prior written notice to the department;

(3) Provide a continuous surety bond in the principal sum of \$10,000.00 for the protection of the contractual rights of individuals required to maintain an ignition interlock device in such form as will meet with the approval of the department and written by a company authorized to do business in this state; provided, however, that the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the principal sum of \$20,000.00 per location, and a single bond at such rate for all locations separately licensed and operated by the same person may be provided in satisfaction of this paragraph. The surety on any such bond may cancel such bond on giving 30 days' notice thereof in writing to the department and shall be relieved of liability for any breach of any condition of the bond which occurs after the effective date of cancellation;

(4) Have the equipment and knowledge necessary to provide, install, and monitor ignition interlock devices as prescribed by the department; and

(5) Pay to the department an application fee of \$250.00.

(b) The department shall conduct a records check for any applicant for certification as a provider center operator. Each applicant shall submit two sets of classifiable fingerprints to the department. The department shall transmit both sets of fingerprints to the Georgia

1 Crime Information Center, which shall submit one set of fingerprints to the Federal Bureau
2 of Investigation for a search of bureau records and an appropriate report and shall retain
3 one set of fingerprints and promptly conduct a search of state records. After receiving a
4 report from the Georgia Crime Information Center and the Federal Bureau of Investigation,
5 the department shall determine whether the applicant may be licensed. The applicant shall
6 be responsible for any fee or other charge allowed by law or rule or regulation promulgated
7 by the department, the Georgia Crime Information Center, or the Federal Bureau of
8 Investigation for the submission, processing, and review of such fingerprints.

9 (c) No applicant shall be licensed or certified who does not meet the requirements set forth
10 in Code Section 43-12A-6.

11 43-12A-5.

12 (a) No provider center shall be permitted to use, adopt, or conduct any business under any
13 name that is like or deceptively similar to any name of a Georgia corporation registered
14 with the Secretary of State.

15 (b) This Code section shall not prohibit the franchising or licensing of any part or all of the
16 name of a provider center by the owner of the rights therein to another licensed provider
17 center.

18 (c) A judicial officer, probation officer, law enforcement officer, or other officer or
19 employee of a court or any person employed by a private company which has contracted
20 to provide private probation services for misdemeanor cases, or any employee of the
21 Department of Motor Vehicle Safety or the Department of Human Resources, and any
22 immediate family member thereof shall be prohibited from owning, operating, being
23 employed by or acting as an agent or servant for, or having a financial interest in any
24 provider center.

25 43-12A-6.

26 Every person who desires to operate a provider center or to engage in the practice of
27 providing, installing, or monitoring ignition interlock devices:

28 (1) Shall not have knowingly made misleading, deceptive, untrue, or fraudulent
29 representations in the practice of a business or profession licensed under this title or on
30 any document connected therewith; or practiced fraud or deceit or intentionally made any
31 false statement in obtaining a license to practice the licensed business or profession; or
32 made a false statement or deceptive registration with the board;

33 (2) Shall not have been convicted of a second or subsequent violation of Code Section
34 40-6-391 within five years, as measured from the dates of previous arrests for which

1 convictions were obtained to the date of the current arrest for which a conviction is
2 obtained;

3 (3) Shall not have been convicted of any felony or of any crime involving theft, fraud,
4 violence, or moral turpitude in the courts of this state or any other state, territory, or
5 country or in the courts of the United States. As used in this paragraph, the term 'felony'
6 shall mean any offense which, if committed in this state, would be deemed a felony,
7 without regard to its designation elsewhere; and the term 'conviction' shall mean a finding
8 or verdict of guilty or a plea of guilty, regardless of whether an appeal of the conviction
9 has been sought; and

10 (4) Shall not have been arrested, charged, and sentenced for the commission of any
11 felony, or any crime involving theft, fraud, violence, or moral turpitude, where:

12 (A) First offender treatment without adjudication of guilt pursuant to the charge was
13 granted; or

14 (B) An adjudication of guilt or sentence was otherwise withheld or not entered on the
15 charge, except with respect to a plea of nolo contendere.

16 The order entered pursuant to the provisions of Article 3 of Chapter 8 of Title 42, relating
17 to probation of first offenders, or other first offender treatment shall be conclusive
18 evidence of arrest and sentencing for such crime.

19 43-12A-7.

20 (a) The department shall issue a license certificate to each provider center operator when
21 such person has met the qualifications required under this chapter. Each provider center
22 shall be required to have a separate license for each location, but mobile units operating out
23 of a particular licensed location need not be separately licensed.

24 (b) All licenses issued to operators of provider centers pursuant to this chapter shall be
25 valid for four years from the date of issuance unless sooner canceled, suspended, or
26 revoked under Code Section 43-12A-8. All licenses shall be renewed through the
27 department as provided in subsection (d) of this Code section and shall be valid for four
28 years from the date of renewal.

29 (c) The license of each provider center operator may be renewed subject to the same
30 conditions as the original license and upon payment of a fee of \$100.00.

31 (d) All applications for renewal of a provider center operator's license shall be on a form
32 prescribed by the department and must be filed with the department not more than 60 days
33 nor fewer than ten days preceding the expiration date of the license to be renewed.

1 43-12A-8.

2 The department may cancel, suspend, revoke, or refuse to renew any provider center's
3 license upon good cause being shown and after ten days' notice to the license holder if:

4 (1) The department is satisfied that the licensee fails to meet the requirements to receive
5 or hold a license under this chapter;

6 (2) The licensee permits fraud or engages in fraudulent practices, with reference to either
7 the applicant or the department, or induces or countenances fraud or fraudulent practices
8 on the part of any applicant for a driver's license or permit;

9 (3) The licensee fails to comply with this chapter or any rule of the department made
10 pursuant thereto;

11 (4) The licensee represents himself or herself as an agent or employee of the department
12 or uses advertising designed to lead, or which would reasonably have the effect of
13 leading, persons to believe that such licensee is in fact an employee or representative of
14 the department;

15 (5) The licensee or any employee or agent of the licensee directly or indirectly solicits
16 business by personal solicitation on public property or in any department, agency, or
17 office of the state which involves the administration of any law relating to motor vehicles,
18 whether by telephone, mail, or electronic communications. A violation of this paragraph
19 shall be a misdemeanor. Advertising in any mass media, including, but not limited to,
20 newspapers, radio, television, magazines, or telephone directories, by a provider center
21 shall not be considered a violation of this paragraph; or

22 (6) The driver's license of the licensee has been canceled, suspended, or revoked.

23 43-12A-9.

24 (a) The commissioner of motor vehicle safety is authorized to prescribe, by rule, standards
25 for the eligibility, conduct, and equipment required for a person to be licensed to operate
26 a provider center and to adopt other reasonable rules and regulations to carry out this
27 chapter. Notwithstanding the foregoing, violations that are minor in nature and committed
28 by a person, firm, or corporation shall be punished only by a written reprimand unless the
29 person, firm, or corporation fails to remedy the violation within 30 days, in which case an
30 administrative fine, not to exceed \$250.00, may be issued.

31 (b) The commissioner of motor vehicle safety shall have the authority to assess, after a
32 hearing, an administrative fine not to exceed \$1,000.00 per violation against any provider
33 center, agent, or employee that fails to comply with any requirement imposed by or
34 pursuant to this chapter.

35 (c) The hearing and any administrative review thereof shall be conducted in accordance
36 with the procedure for contested cases under Chapter 13 of Title 50, the 'Georgia

Administrative Procedure Act.' Any person, firm, or corporation who has exhausted all administrative remedies available and who is aggrieved or adversely affected by a final order or action of the commissioner of motor vehicle safety shall have the right of judicial review thereof in accordance with Chapter 13 of Title 50. All fines recovered under this Code section shall be paid into the state treasury. The commissioner of motor vehicle safety may file in the superior court:

(1) Wherein the person under order resides;

(2) If such person is a corporation, in the county wherein the corporation maintains its principal place of business; or

(3) In the county wherein the violation occurred

a certified copy of a final order of the commissioner of motor vehicle safety, whether unappealed from or affirmed upon appeal, whereupon the court shall render judgment in accordance therewith and notify the parties. Such judgment, and any proceeding in relation thereto, shall have the same effect as though the judgment had been rendered in an action duly heard and determined by the court. The penalty prescribed in this Code section shall be concurrent, alternative, and cumulative with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or penalties provided, allowed, or available to the commissioner of motor vehicle safety with respect to any violation of this chapter or any order, rules, or regulations promulgated pursuant to this chapter."

SECTION 13.

Chapter 13 of Title 43 of the Official Code of Georgia Annotated, relating to instructors in driver training and operators of driver training schools, is amended by striking Code Section 43-13-2, relating to definitions applicable to driver training schools, and inserting in its place the following:

"43-13-2.

(a) As used in this chapter, the term:

(1) 'Certificate of completion' means a certificate prescribed by the department issued for the successful completion of an approved 30 hours of classroom instruction and six hours of behind-the-wheel training by a licensed driver training school.

~~(3)~~(2) 'Commercial driver training school' means any person, partnership, limited liability company, or corporation giving driving instruction ~~to ten or more persons per calendar year~~ for hire for the purpose of assisting ~~such~~ persons to meet the requirements for licensed driving of Class A or Class B motor vehicles in this state.

~~(1)~~(3) 'Department' means the Department of Motor Vehicle Safety acting directly or through its duly authorized officers and agents.

1 ~~(2)~~(4) 'Driver training ~~schools~~ school' means any person, partnership, limited liability
2 company, or corporation giving driving instruction ~~to ten or more persons per calendar~~
3 ~~year~~ for hire for the purpose of assisting ~~such~~ persons to meet the requirements for
4 licensed driving of Class C or Class M motor vehicles in this state, except for motorcycle
5 operator safety training programs conducted by or on behalf of the Department of Motor
6 Vehicle Safety pursuant to Chapter 15 of Title 40. The term shall also include any public
7 school system offering a driver training course during the regular school day as part of
8 a student curriculum at no cost to the student.

9 ~~(4)~~(5) 'Driver's license examiners' means examiners appointed by the Department of
10 Motor Vehicle Safety for the purpose of giving driver's license examinations.

11 ~~(5)~~(6) 'Motor vehicle' means every vehicle which is self-propelled upon, or by which any
12 person or property is or may be transported or drawn upon, a public highway except
13 devices used exclusively upon stationary rails or tracks.

14 ~~(6)~~(7) 'Person' means every natural person, firm, partnership, limited liability company,
15 association, corporation, or school.

16 (b)(1) Except as otherwise provided in this subsection, the terms 'driver training school'
17 and 'commercial driver training school' shall not include hospitals and state licensed
18 rehabilitation centers offering a driver training course for the purpose of rehabilitating
19 persons to maintain or obtain a Class C license; except that such facilities shall be
20 required to file a memorandum of understanding with the commissioner of motor vehicle
21 safety in the prescribed format of the department.

22 (2) Any person offering a for hire defensive driving safety course for the purpose of
23 providing training to assist persons to obtain a Class C or Class M license through means
24 of behind-the-wheel training, simulator training, or a defensive driving safety course
25 consisting of less than 30 hours of classroom instruction and six hours of
26 behind-the-wheel training shall be required to obtain a limited license as a driver training
27 school, register and identify all of its vehicles, and become subject to the same insurance
28 requirements for a driver training school as outlined in Code Section 43-13-4. The
29 commissioner of motor vehicle safety shall promulgate and adopt rules and regulations
30 for the qualifications for the driver training school limited license. The commissioner
31 shall issue the driver training school limited license if the application is complete and the
32 applicant demonstrates compliance with the laws of this state and the rules and
33 regulations of the commissioner regarding insurance and safety. The driver training
34 school limited license shall be valid for a period of four years.

35 (3) Any person may obtain a temporary driver training permit for a period of seven
36 consecutive days beginning and ending on the dates specified on the face of the permit.
37 Temporary driver training permits shall be obtained by schools, individuals, or other

1 entities which offer occasional driver training instruction and which do not maintain a
2 permanent classroom located within the state. The fee for each temporary driver training
3 permit shall be \$100.00 per week and \$25.00 for each vehicle. No temporary driver
4 training permit shall be issued without the commissioner having first received satisfactory
5 proof that the applicant meets the insurance requirements as defined in Code Section
6 43-13-4 and the vehicle and safety requirements of the rules and regulations of the
7 commissioner. A temporary driver training permit shall be displayed in a conspicuous
8 location during all times instruction is being given and a copy of such permit shall be
9 located in each vehicle that is registered for the purpose of providing instruction."

10 SECTION 14.

11 Said chapter is further amended by striking Code Section 43-13-3, relating to licensing of
12 driver training schools, and inserting in its place the following:

13 "43-13-3.

14 No person shall operate a driver training school, operate a commercial driver training
15 school, or engage in the business of giving instruction to ten or more persons per calendar
16 year for hire in the driving of motor vehicles or in the preparation of an applicant for
17 examination given by driver's license examiners for a driver's license or permit unless a
18 license, a limited license, or temporary driver training permit therefor has been secured
19 from the department. Separate licenses shall be required for the operation of a driver
20 training school and a commercial driver training school. A driver training school shall
21 offer a minimum of 30 hours of classroom instruction and six hours of behind-the-wheel
22 instruction for the purpose of assisting persons to obtain a Class C license; however, a
23 public or private school system may contract with a licensed driver training school to
24 provide the six hours of behind-the-wheel instruction. A driver training school shall offer
25 a minimum of 15 hours of instruction for the purpose of assisting persons to obtain a
26 Class M license."

27 SECTION 15.

28 Said chapter is further amended by striking paragraphs (3), (4), and (6) of Code Section
29 43-13-4, relating to qualification of driver training school operators, and inserting in their
30 place the following:

31 "(3) Maintain bodily injury and property damage liability insurance on motor vehicles
32 while used in driver training instruction, insuring the liability of the driver training
33 school, the driving instructors, and any person taking instruction, in at least the following
34 amounts: \$100,000.00 for bodily injury to or death of one person in any one accident and,
35 subject to such limit for one person, ~~\$200,000.00~~ \$300,000.00 for bodily injury to or

death of two or more persons in any one accident and the amount of ~~\$20,000.00~~
~~\$50,000.00~~ for damage to property of others in any one accident. Evidence of such
 insurance coverage, in the form of a certificate from the insurance carrier, shall be filed
 with the department; and such certificate shall stipulate that the insurance shall not be
 canceled except upon ten days' prior written notice to the department. Such insurance
 shall be written by a company authorized to do business in this state;

(4) Provide a continuous surety company bond in the principal sum of ~~\$2,500.00~~
~~\$10,000.00~~ for the protection of the contractual rights of students in such form as will
 meet with the approval of the department and written by a company authorized to do
 business in this state; provided, however, that the aggregate liability of the surety for all
 breaches of the condition of the bond in no event shall exceed the principal sum of
~~\$2,500.00~~ ~~\$10,000.00~~ per location, and a single bond at such rate for all schools operated
 by the same person may be provided in satisfaction of this paragraph. The surety on any
 such bond may cancel such bond on giving 30 days' notice thereof in writing to the
 department and shall be relieved of liability for any breach of any condition of the bond
 which occurs after the effective date of cancellation. If at any time said bond is not valid
and in force, the license of the school or program shall be deemed suspended by operation
of law until a valid surety company bond is again in force."

"(6) Pay to the department an application fee of \$25.00 for the approval of driver training
schools and instructors, commercial driver training schools and instructors, and driver
training schools limited license and instructors. These licenses and each renewal thereof
shall be valid for a period of four years unless suspended or revoked prior to the
expiration of that time period."

SECTION 16.

Said chapter is further amended by striking Code Section 43-13-4.1, relating to business
 names of driver training schools, and inserting in its place the following:

"43-13-4.1.

(a) No driver training school or commercial driver training school shall be permitted to
 use, adopt, or conduct any business under any name that is like or deceptively similar to
 any name of a Georgia corporation registered with the Secretary of State.

(b) This Code section shall not prohibit the franchising or licensing of any part or all of the
 name of a driver training school or commercial driver training school by the owner of the
 rights therein to another licensed driver training school or commercial driver training
school."

SECTION 17.

Said chapter is further amended by striking subsection (a) of Code Section 43-13-10, relating to exceptions to the driver training school law, and inserting in its place the following:

"(a) This chapter shall not apply to a college conducting a ~~driver or~~ commercial driver training course; nor shall it apply to driver improvement schools operated by the state or by a county or municipality; nor shall it apply to any entity conducting a driver safety course on private property when the vehicles used in the training are licensed by the vehicle owner and are not owned, leased, or under the control of the entity conducting or sponsoring the training. Such entity shall notify the department of the dates and location of the scheduled training and provide a certificate of liability insurance in the form established by the department."

SECTION 18.

This Act shall become effective on July 1, 2005, except for Section 12, which shall become effective on January 1, 2006.

SECTION 19.

All laws and parts of laws in conflict with this Act are repealed.